

**HOGUET NEWMAN
REGAL & KENNEY, LLP**

10 East 40th Street
New York, New York 10016

Tel 212.689.8808
Fax 212.689.5101
www.hnrklaw.com

jkenney@hnrklaw.com

July 18, 2017

VIA E-MAIL

The Honorable Katharine H. Parker
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Room 1950
New York, New York 10007

**Re: *City of Almaty, Kazakhstan, et ano. v. Mukhtar Ablyazov, et al.*,
Case No. 15-CV-5345 (AJN) (KHP)**

Dear Judge Parker,

Our firm represents crossclaim defendants Viktor Khrapunov and Ilyas Khrapunov (the "Khrapunovs") in the above-referenced matter. We write briefly in response to BTA Bank JSC and the City of Almaty's ("BTA/Almaty") July 17, 2017 letter concerning their cross-motion for a protective order.

BTA/Almaty continue to base their argument entirely on the false premise that Ilyas Khrapunov hacked or stole the documents at issue. [REDACTED]

[REDACTED] However, BTA/Almaty have not submitted sworn testimony or other evidence on this point.

Moreover, although BTA/Almaty have an Agreement and Release that requires Mr. Bourg to testify upon request and he has previously appeared in Court upon such request, attempts by the defense to depose Mr. Bourg have been repeatedly frustrated. Three times the parties have had tentative dates for Mr. Bourg's deposition; in each instance, Mr. Bourg indicated that he needed to reschedule. Most recently, Mr. Bourg's lawyer emailed the parties on Friday, July 15, to cancel a deposition that had been tentatively scheduled for July 18 in London.

BTA/Almaty further argue the obvious, that the Federal Rules of Civil Procedure provide for protective orders of the Court in discovery matters. However, they fail to provide a basis or reason for an order that would prevent the Defendants from using the documents at issue to question a witness at a deposition. BTA/Almaty's counsel may object on the record or, where a privilege exists, direct the witness not to respond. In addition, the documents and the testimony will be covered by the existing Confidentiality Agreement and Order.

The Honorable Katharine H. Parker
July 18, 2017
Page 2

HOGUET NEWMAN
REGAL & KENNEY, LLP

Finally, we are advised that the documents in question were all obtained from the Kazaword website when it was available to the public, BTA/Almaty's argument to the contrary notwithstanding.

Respectfully submitted,


John J. Kenney

cc: All Counsel of Record (*by ECF*)